

333.705
#12
1.2*2 11N.1983

PLEASE RETURN



EQComments

Volume 2

Number 2

November 1983

STATE DOCUMENTS COLLECTION

NOV 10 1983

MONTANA STATE LIBRARY
1515 E. 6th AVE.

Inside HELENA, MONTANA 59620

<i>Hazardous Waste</i>	2
<i>Nat. Resources Subcomm</i> ..	4
<i>MFSA Rule Revisions</i>	4
<i>EQC Staff</i>	5
<i>Revised Index</i>	5
<i>Heritage Data System</i>	5
<i>EQC Meeting</i>	6
<i>Groundwater Council</i>	7
<i>Water Marketing</i>	7
<i>Annual Report</i>	8
<i>EIS Update</i>	9
<i>Water Oversight</i>	10

New Biweekly PER Listing

The Environmental Quality Council will soon begin publishing a biweekly list of all preliminary environmental reviews (PERs) and environmental impact statements (EISs) issued by state agencies. The list will indicate the project title, lead agency, dates for comments, and the appropriate contacts for additional information.

State rules require that a copy of each EIS and PER prepared by a state agency be sent to EQC. This requirement helps EQC monitor environmental actions and policies of state agencies, as required by MEPA. EQC is the only office to which state agencies are required to send all PERs.

Although environmental impact statements generally receive wide public distribution, preliminary environmental reviews are often given only intra- or inter-agency review. These public documents are used by state agencies to identify whether a proposed action constitutes "major actions of state government significantly affecting the quality of the human environment." If a PER so indicates, the agency is required to do an EIS on the project. On projects for which an agency decides that no EIS is necessary, the PER may represent the only written record of environmental analysis.

The EQC list of PERs and EISs is the only compilation of current environmental reviews by state agencies and thus should provide a convenient focus for legislators and the public interested in monitoring governmental actions. The biweekly schedule is designed to allow time to obtain and review the documents and to submit comments.

This list will be separate from the EQComments mailing list, so if you or your organization would like to receive the PER-EIS listing, please contact the EQC at Capitol Station, Helena, MT 59620, (406) 449-3742.

Hazardous Waste Update

Pending federal legislation may mean substantial changes in hazardous waste management in Montana, according to Duane Robertson, Chief of the Solid Waste Management Bureau of the Montana Department of Health and Environmental Sciences.

Robertson, addressing the FQC Toxic Substances Subcommittee, chaired by Rep. Earl Lory, in Livingston on October 6, explained that Congress will probably strengthen provisions of the law regulating the disposal of small quantities of hazardous wastes. While these changes would provide additional safeguards against environmental pollution, Robertson also noted that the proposed legislation would place additional responsibilities on state agencies and certain waste generators.

The Federal Resource Conservation and Recovery Act (RCRA) and the corresponding Montana Hazardous Waste Act (HWA) form the basis for hazardous waste management programs in Montana. These laws require detailed reports from industries generating more than 1,000 kg (2,200 lbs.) of hazardous wastes per month. By tracking the waste from "cradle to grave" (generation to disposal), government officials can reduce the risks of illegal disposal and environmental contamination.

Oil refineries, wood treatment operations, and chemical plants are among the Montana industries that generate more than 1,000 kg of hazardous wastes per month. These regulated generators must dispose of their wastes in licensed, on-site treatment facilities or ship the wastes to licensed, commercial dump sites in Oregon and Idaho. There are no commercial hazardous waste disposal facilities operating in Montana.

Generators of less than 1,000 kg of hazardous waste per month are not exempt from provisions of RCRA and HWA. These "small-quantity" generators are allowed to dispose of their wastes in municipal landfills.

Robertson noted that the lack of regulation of small-quantity generators has raised concern among landfill operators and municipal health officials, who fear that allowing hazardous waste disposal in landfills may eventually lead to groundwater contamination. At the federal level, this concern has led to proposed amendments to RCRA to bring all generators of more than 100 kg (220 lbs.) of hazardous waste per month under more stringent regulation.

If the federal amendments pass, Robertson explained, the new provisions would automatically apply to state programs. In Montana, this would place an estimated 500 to 1,000 additional waste generators under the auspices of the state hazardous waste management program. Machine shops, dry cleaners, and chemical laboratories are among the industries most likely to be affected. These and other industrial operations generating 100 to 1,000 kg of hazardous waste per month would no longer be able to use landfills for hazardous waste disposal; rather, wastes would have to be handled by licensed commercial treatment, storage, or disposal facilities.

The prospect of regulating hundreds of additional hazardous waste generators has prompted the Solid Waste Management Bureau to consider a range of management alternatives. The bureau is utilizing a \$10,000 Environmental Protection Agency (EPA) grant to study the relative costs and benefits of the following three hazardous waste management options:

- Establishing a hazardous waste disposal site in Montana;
- Establishing a hazardous waste collection system with one or more sites where generators could bring wastes for later shipment to licensed, out-of-state hazardous waste facilities; and
- Requiring small-quantity generators to ship wastes at their own expense to out-of-state commercial facilities.

Robertson noted that establishing a disposal facility or a collection system might require state funding because the relatively small quantity of hazardous wastes produced in Montana probably makes private, commercial facilities economically unfeasible. He also noted that without a state program, the cost of shipping wastes might constitute a financial hardship to many small businesses coming under hazardous waste management regulations. An additional complication, according to Robertson, is that the Idaho and Oregon commercial disposal facilities may no longer have the physical capacity to accept Montana hazardous wastes if the new federal laws result in a substantial increase in the amount of regulated waste.

Robertson said that state legislation may be necessary to address the issues of small quantity hazardous wastes and the siting of disposal or collection facilities in Montana. He pledged to keep the EQC Toxic Substances Subcommittee informed on pertinent federal legislation and his bureau's study of hazardous waste management options.

Robertson also informed the subcommittee on the status of the Superfund, a \$1.6 billion federal program established to clean up sites contaminated by past dumping of hazardous wastes. Robertson explained that the Superfund program is looking at about 400 sites nationwide, with five sites so far identified in Montana. These include the Anaconda copper smelter (heavy metal pollution), the ASARCO smelter in East Helena (lead), Libby groundwater (pentachlorophenol from wood treatment), the Milltown water supply (arsenic contamination), and a 22-mile section of Silver Bow Creek (heavy metals from mining and smelting). The EPA and Montana have cooperative agreements on the cleanup of Milltown groundwater and Silver Bow Creek, while EPA is taking the lead on the other three Superfund sites.

The EPA has also given the Solid Waste Management Bureau a grant to investigate other potential Superfund sites in Montana. The bureau is working from a list of about 90 sites, including pesticide and petroleum waste dumps, landfills, and abandoned mine sites. Recommendations for additional Superfund cleanup sites should be forthcoming in late 1984.

The EQC Toxic Substances Subcommittee will continue to monitor Montana's hazardous waste management program and related Congressional actions. The subcommittee will also assess the need for state legislation on the issue of small-quantity hazardous waste disposal.

Subcommittee Tours Minesite

On October 6 the EQC Natural Resources Oversight Subcommittee, chaired by Rep. Dave Brown, toured the Homestake Mining Company's proposed mine site in Jardine, Montana. Homestake is currently exploring the extent of its mineral deposit and the economic feasibility of mining. Because the mine, if opened, would employ more than 100 workers, the company will be required to comply with the Hard-Rock Mining Impact Act before mining may begin.

Anticipating a favorable feasibility analysis, Homestake has already begun to prepare an Economic Impact Plan as required by the act. The Impact Plan will identify the costs likely to be incurred by local governments due to population increases resulting from the mineral development. Further, the plan will prescribe steps the company will take to offset these costs, such as the prepayment of property taxes. If Homestake does open a mine at its Jardine site, the company must receive approval of the Impact Plan from the state Hard-Rock Mining Impact Board before mining may commence. At the present time, the Impact Board is attempting to refine its understanding of the Impact Act in preparation for the first submittal of an Impact Plan, either from the Homestake Company or another.

The subcommittee, following the mine tour, met with the Impact Board and discussed some possible problems with the act. Having heard the concerns of the board, the subcommittee members agreed that there were no immediate impairments to the board's fair implementation of the act. The subcommittee strongly encouraged the board to proceed now as it sees fit, with the expectation that most of the difficulties could be resolved administratively.

Major Facility Siting Act Rules

The Energy Division of the Department of Natural Resources and Conservation recently commenced plans to revise its administrative rules for implementing the Major Facility Siting Act (MFSA). The EQC has contracted with John C. Orth, the former Director of the DNRC, to monitor these activities.

In addition to implementing changes made in the MFSA in the 1979, 1981, and 1983 legislative sessions, the department is seeking to simplify the rules and, where possible, establish quantitative standards for the environmental factors that must be considered under the act. Incorporation of specific standards should help ensure a fair and uniform evaluation of the environmental impacts of proposed facilities. With the cooperation of staff from state agencies involved in the facility siting process, the DNRC expects to have a draft copy of the new rules available for public comment

by mid-November. To receive a copy of the rules when they become available, contact the Energy Division, Capitol Station, Helena, MT 59620, (406) 444-6767.

At its October 7 meeting in Livingston, Orth briefed the Natural Resources Oversight Subcommittee on DNRC efforts to date. The subcommittee directed Orth to continue monitoring the rules revision process.

The subcommittee discussed plans to study the use of monies collected under the Resource Indemnity Trust Tax and the possibility of using a portion of the Coal Tax revenues to fund research into innovative technologies for the enhanced use and conservation of non-renewable energy resources. The EQC staff was directed to obtain background information on both of these matters for review by the subcommittee at its next meeting. At that time formal study plans will be outlined.

EQC Staff Notes

The EQC has two additional staff members since the last issue of EQComments.

Nina Furlong is the new half-time secretary. Nina and her husband, Mike, have three children: Matthew, Michael, and Gina.

Hugh Zackheim is EQC's new associate resource scientist. Hugh, who has a master's degree in wildlife biology from the University of Montana, will be monitoring activities on small-scale hydropower, hazardous waste, and the Montana Environmental Policy Act. Hugh and his wife, Karen, moved to Helena from Twin Bridges with their son, Alan.

Revised Permit Index

In a cooperative effort, the staff from EQC and the Department of Health and Environmental Sciences are updating the Montana Index of Environmental Permits. The Permit Index represents an effort by the two agencies to develop a comprehensive list of permits and licenses that must be obtained in order to engage in activities having potential impact on the environment in Montana. The document assists developers in identifying and complying with applicable permit requirements.

The EQC anticipates that the Permit Index will be available for distribution in December. It will contain changes in permit requirements mandated by the 1983 Legislature and by revision of administrative rules of the regulatory agencies.

New Natural Resources Data System

Work has recently begun on planning and coordinating the implementation of a comprehensive natural resource information system. The

1983 Legislature passed HB 785, which directed the Department of Administration to develop a natural resource information system and to establish, as a first step, the Montana Natural Heritage Program. Currently, various departments of state government and the university system independently collect natural resource information for different purposes. This information is valuable to state government, industry, and conservation groups, but is often inaccessible and not well-catalogued. Establishment of the Natural Heritage Program and the subsequent development of a natural resource data system would eliminate costly duplication and make this information accessible and affordable to a variety of users. The Legislature intended that the Montana Natural Heritage Program be similar to and compatible with programs in operation in 33 states; the Nature Conservancy is attempting to encourage the program in states throughout the nation.

An advisory committee composed of representatives of the principal agencies that generated the data and the EQC helps the Department of Administration make recommendations on criteria for categories and types of information to be collected and on the format of data collection. The committee also identifies data acquisition, storage, and retrieval methods that minimize the duplication of data bases and utilize computer networking. Other committee assignments include analyzing the probable costs and benefits of a natural resource information system and advising the Department of Administration on the operation of the Montana Natural Heritage System.

The Advisory Committee held its first meeting October 13 and plans to meet again in November. Industry, conservation groups, and other potential users of the system will be consulted throughout the planning process. Contact the EQC for more information.

EQC Meeting in Livingston

The EQC and its subcommittees met in Livingston October 6 and 7. The meeting was held when the EQC members could also participate in the conference on Innovative Energy Financing in the Eighties sponsored by the Department of Natural Resources and Conservation, the U.S. Department of Energy, the Western Interstate Energy Board, and the BPA. The conference, which was well-attended by representatives of both the private and public sectors, focused on ways of channeling necessary capital investment to innovative renewable energy and conservation measures that are cost-effective in the long-term but are unable to attract financing from conventional sources.

At the full EQC meeting on Friday afternoon, the council held an informal discussion with Pat Collins, Undersecretary of the U.S. Department of Energy. He discussed the status of DOE's conservation and renewables program and Montana's leading position in this area of energy policy. Ed Sterns, Development Director of the City of Livingston, updated the council on the status of incentives for development of the wind energy industry in

Montana. He indicated that European companies currently possess a major advantage over U.S. companies because European governments heavily subsidize their industry. In other business, the EQC discussed the Natural Resource Data System, the Major Facility Siting Act rules revision, and the status of the lawsuits relating to implementation of MEPA.

The EQC and its subcommittees tentatively plan to meet again December 15-16 to discuss the status of the subdivision review process, problems concerning the development of small-scale hydroelectric power, and the overall operation of the Department of State Lands environmental programs. In future meetings, the EQC plans to meet with officials from the various natural resource agencies of state government to discuss the implementation of their environmental programs.

Ground Water Issues

The third meeting of the Groundwater Advisory Council, chaired by Rep. Gay Holliday, will be held in Helena on November 17 and 18. The 16-member advisory council was appointed by Governor Ted Schwinden in April 1983 to develop recommendations for a state groundwater management strategy. A primary objective of the meeting is to consider various options for a groundwater strategy in Montana. Representatives of federal and state agencies have been asked to outline the various issues and problems affecting groundwater management within their jurisdiction.

Members of the council will present a comparison of management strategies developed in other states and a range of possible solutions. At the conclusion of the meeting, subcommittees may be formed to deal with such special issues as integrated management strategies, administration of groundwater, groundwater quality, and groundwater data storage and dissemination.

Select Committee on Water Marketing

The Select Committee on Water Marketing, chaired by Senator Jean Turnage, met in Helena on October 1 to discuss HB 908, the water marketing study. Five attorneys attended the committee meeting to share their knowledge of the fundamental legal framework governing Montana's water resources.

Participating in the meeting were Don McIntyre, Chief Legal Counsel with the Department of Natural Resources and Conservation; Sharon Morrison, an attorney in private practice in Helena; Ted Doney, also an attorney in private practice in Helena and former director of DNRC; Richard Aldrich, an Assistant Field Solicitor with the U.S. Department of the Interior; and, Peter Stanley, the counsel for Montana's Reserved Water Rights Compact Commission.

Among the issues considered by the committee were: ownership and the rights to use water in federal reservoirs; the status of various water

agreements and compacts among Montana, the federal government, and other states; litigation pending in the courts that could challenge state water laws and programs; Montana's obligations to lower Missouri River basin states; and the status of negotiations between the Reserved Water Rights Compact Commission and the parties holding reserved water rights in Montana. These and other issues were discussed in detail, but at the conclusion of the meeting, the committee agreed on the need to consider additional legal questions at a future meeting.

Rep. Shontz, Vice-Chairman of the committee, reported on a five-state legislative conference recently held in Wyoming where the concern about water issues affecting the upper Missouri River basin states was discussed. The committee requested that Rep. Shontz investigate the possibility of strengthening cooperation with legislative water committees in the other states.

Will Knedlik of the Lincoln Institute of Land Policy and John Thorson, an attorney for the Western Conference of the Council of State Governments, discussed their perceptions of the legal issues related to water policy. They each offered their assistance to the committee's efforts to develop strategies for the protection and development of the state's water resources.

The next meeting of the committee has been scheduled for December 2 and 3 in Helena. At that time, the committee will focus on the issues of water availability and water management. The tentative meeting agenda includes a discussion of the Pick-Sloan Missouri Basin Program, a review of the water accounting system developed by the Missouri Basin States Association, and a description and discussion of water availability in various basins within Montana.

EQC Annual Report

The new Annual Report of the Environmental Quality Council should be printed by the end of the year.

The report, which is required by the Montana Environmental Policy Act, is an overview of a variety of environmental issues and concerns in Montana. This year, for the first time, we are including the final status of natural resource legislation in the Annual Report. This is a complete annotation of all natural resource legislation, both successful and unsuccessful, considered by the 1983 Legislature.

The Annual Report will be mailed to all those who now receive EQComments. If you are not already on our mailing list, or if you wish additional copies, contact the EQC.

EIS Update

<u>LEAD AGENCY</u>	<u>PROJECT</u>	<u>DRAFT</u>	<u>FINAL</u>
AG	Endrin Rules	7-83	
DSL	Absaroka Westmoreland Mine, Big Horn County	Winter 1983	
DSL	Consolidation Coal CX Ranch Mine, Big Horn County	Winter 1983	
DSL	Montco Mine, Rosebud County	5-82	Winter 1983
DSL	Western Energy Rosebud Mine, Area B Second Extension, Rosebud County	3-83	8-83
DSL	Western Energy Rosebud Mine, Area D, Rosebud County	Winter 1984	
DSL	Western Energy Rosebud Mine Comprehensive	March 1983	8-83
DSL	Wolf Mountain Mine, Big Horn County	Spring 1984	
DOE/BPA	1983 Wholesale Power Rate	4-83	9-83
DOE/BPA	Expanded Residential Weatherization Program	9-83 Comments Due 11-14-83	
DOI/BLM	Billings Resource Area Manage- ment	4-83	Expected 11-83
DOI/BLM	Headwaters Resource Area Management	5-83	Expected 11-83
ICC	Tongue River Railroad, Custer, Rosebud, and Powder River Counties	7-83	

Water Oversight Subcommittee

The EQC Water Oversight Subcommittee, chaired by Senator Dorothy Eck, met in Livingston on October 7 to discuss plans for subcommittee activities.

Staff presented a brief report on the activities and progress of the Select Committee on Water Marketing and the Ground Water Advisory Council. Committee members reported an interest in promoting an exchange of information on water issues with legislators in other western states.

The committee expressed a particular interest in evaluating current problems of monitoring water quality and the enforcement of water quality regulations. At a future meeting the committee intends to review the responsibilities of each agency involved with water quality regulation and enforcement.

A topic of special interest to the committee is acid precipitation. The potential effects of acid precipitation on Montana's forests crops and aquatic ecosystems was received as a long-range problem that should be closely monitored. Dr. Les Pengelly reported that research in the eastern U.S. and in Europe has shown that effects on forests happen too slowly to be obvious until after serious damage has occurred. Large tracts of forests that are weakened by acid precipitation become susceptible to damage by insects and diseases. Lakes and streams in southwestern Montana are especially vulnerable to acid precipitation due to the geological characteristics of the watersheds and their proximity to urban and industrial centers. Although there are not sufficient data to identify specific air pollutant sources that affect Montana, it is generally believed that multiple sources along the west coast may impact western and southwestern Montana. Dr. Pengelly emphasized the importance of developing and maintaining a monitoring program for specific regions of Montana. Only by recognizing early signs of the problem can we expect to prevent very serious long-term damages.

350 copies of this public document were published at an estimated cost of 51¢ per copy, for a total cost of \$178.85, which includes \$118.85 for printing and \$60.00 for distribution.

EQC
Capitol Station
Helena, MT 59620

DEADHEAD
State Library